

## SENATE BILL No. 495

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-24-1-1.

**Synopsis:** Forfeiture and driving while intoxicated. Permits the forfeiture of a motor vehicle operated by a person who has a prior unrelated conviction for operating while intoxicated if the person commits: (1) operating a motor vehicle while intoxicated; (2) operating a motor vehicle without financial responsibility being in effect; (3) operating a motor vehicle with a suspended driver's license; or (4) operating a motor vehicle having never received a license.

**Effective:** July 1, 2005.

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**Young R Michael**

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January 18, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 495

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 34-24-1-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following  
3 may be seized:

4 (1) All vehicles (as defined by IC 35-41-1), if they are used or are  
5 intended for use by the person or persons in possession of them to  
6 transport or in any manner to facilitate the transportation of the  
7 following:

8 (A) A controlled substance for the purpose of committing,  
9 attempting to commit, or conspiring to commit any of the  
10 following:

11 (i) Dealing in or manufacturing cocaine, a narcotic drug, or  
12 methamphetamine (IC 35-48-4-1).

13 (ii) Dealing in a schedule I, II, or III controlled substance  
14 (IC 35-48-4-2).

15 (iii) Dealing in a schedule IV controlled substance  
16 (IC 35-48-4-3).

17 (iv) Dealing in a schedule V controlled substance



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- 1 (IC 35-48-4-4).  
 2 (v) Dealing in a counterfeit substance (IC 35-48-4-5).  
 3 (vi) Possession of cocaine, a narcotic drug, or  
 4 methamphetamine (IC 35-48-4-6).  
 5 (vii) Dealing in paraphernalia (IC 35-48-4-8.5).  
 6 (viii) Dealing in marijuana, hash oil, or hashish  
 7 (IC 35-48-4-10).  
 8 (B) Any stolen (IC 35-43-4-2) or converted property  
 9 (IC 35-43-4-3) if the retail or repurchase value of that property  
 10 is one hundred dollars (\$100) or more.  
 11 (C) Any hazardous waste in violation of IC 13-30-6-6.  
 12 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass  
 13 destruction (as defined in IC 35-41-1-29.4) used to commit,  
 14 used in an attempt to commit, or used in a conspiracy to  
 15 commit an offense under IC 35-47 as part of or in furtherance  
 16 of an act of terrorism (as defined by IC 35-41-1-26.5).  
 17 (2) All money, negotiable instruments, securities, weapons,  
 18 communications devices, or any property used to commit, used in  
 19 an attempt to commit, or used in a conspiracy to commit an  
 20 offense under IC 35-47 as part of or in furtherance of an act of  
 21 terrorism or commonly used as consideration for a violation of  
 22 IC 35-48-4 (other than items subject to forfeiture under  
 23 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):  
 24 (A) furnished or intended to be furnished by any person in  
 25 exchange for an act that is in violation of a criminal statute;  
 26 (B) used to facilitate any violation of a criminal statute; or  
 27 (C) traceable as proceeds of the violation of a criminal statute.  
 28 (3) Any portion of real or personal property purchased with  
 29 money that is traceable as a proceed of a violation of a criminal  
 30 statute.  
 31 (4) A vehicle that is used by a person to:  
 32 (A) commit, attempt to commit, or conspire to commit;  
 33 (B) facilitate the commission of; or  
 34 (C) escape from the commission of;  
 35 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal  
 36 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting  
 37 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense  
 38 under IC 35-47 as part of or in furtherance of an act of terrorism.  
 39 (5) Real property owned by a person who uses it to commit any of  
 40 the following as a Class A felony, a Class B felony, or a Class C  
 41 felony:  
 42 (A) Dealing in or manufacturing cocaine, a narcotic drug, or

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- 1 methamphetamine (IC 35-48-4-1).
- 2 (B) Dealing in a schedule I, II, or III controlled substance
- 3 (IC 35-48-4-2).
- 4 (C) Dealing in a schedule IV controlled substance
- 5 (IC 35-48-4-3).
- 6 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 7 (6) Equipment and recordings used by a person to commit fraud
- 8 under IC 35-43-5-4(11).
- 9 (7) Recordings sold, rented, transported, or possessed by a person
- 10 in violation of IC 24-4-10.
- 11 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
- 12 defined by IC 35-45-6-1) that is the object of a corrupt business
- 13 influence violation (IC 35-45-6-2).
- 14 (9) Unlawful telecommunications devices (as defined in
- 15 IC 35-45-13-6) and plans, instructions, or publications used to
- 16 commit an offense under IC 35-45-13.
- 17 (10) Any equipment used or intended for use in preparing,
- 18 photographing, recording, videotaping, digitizing, printing,
- 19 copying, or disseminating matter in violation of IC 35-42-4-4.
- 20 (11) Destructive devices used, possessed, transported, or sold in
- 21 violation of IC 35-47-5.
- 22 (12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes
- 23 that a person attempts to sell in violation of IC 24-3-5.2, and other
- 24 personal property owned and used by a person to facilitate a
- 25 violation of IC 24-3-5.2.
- 26 (13) Tobacco products that are sold in violation of IC 24-3-5,
- 27 tobacco products that a person attempts to sell in violation of
- 28 IC 24-3-5, and other personal property owned and used by a
- 29 person to facilitate a violation of IC 24-3-5.
- 30 **(14) A motor vehicle used by a person who operates the motor**
- 31 **vehicle:**
- 32 **(A) while intoxicated, in violation of IC 9-30-5-1 through**
- 33 **IC 9-30-5-5, if the person has a prior unrelated conviction:**
- 34 **(i) for operating a motor vehicle while intoxicated in**
- 35 **violation of IC 9-30-5-1 through IC 9-30-5-5; or**
- 36 **(ii) for an offense that is substantially similar to**
- 37 **IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction;**
- 38 **(B) on a highway without having financial responsibility in**
- 39 **effect for the motor vehicle, in violation of IC 9-25-4, if the**
- 40 **person has a prior unrelated conviction:**
- 41 **(i) for operating a motor vehicle while intoxicated in**
- 42 **violation of IC 9-30-5-1 through IC 9-30-5-5; or**

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(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction;  
 (C) on a highway while the person's driver's license is suspended in violation of IC 9-24-19, if the person has a prior unrelated conviction:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction;  
 or

(D) on a highway having never received a valid driver's license in violation of IC 9-24-18-1, if the person has a prior unrelated conviction:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).

(2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(4) IC 35-48-4-4 (dealing in a schedule V controlled substance)

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- 1 as a Class B felony.
- 2 (5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or
- 3 methamphetamine) as a Class A felony, Class B felony, or Class
- 4 C felony.
- 5 (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as
- 6 a Class C felony.

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